



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON DC 20370-5100

JRE
Docket No: 7245-00
16 January 2001



Dear 

This is in reference to your application for correction of your naval record pursuant to the provisions of title 10 of the United States Code, section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 11 January 2001. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval and Department of Veterans Affairs (VA) records and applicable statutes, regulations and policies.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice. In this connection, the Board substantially concurred with the rationale of the hearing panel of the Physical Evaluation Board which considered your case on 29 November 1994, and it rejected your contentions of alleged error and injustice. A copy of the rationale is attached. Accordingly, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official

records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director

Enclosure

RATIONALE

THIS 44 YEAR OLD MEMBER APPEARED BEFORE A MEDICAL BOARD AT THE NATIONAL NAVAL MEDICAL CENTER, BETHESDA, MARYLAND ON 25 MAY 1994 WITH THE FOLLOWING DIAGNOSES:

- (1) PROLACTIN-SECRETING PITUITARY ADENOMA, 90540
- (2) BRONCHIAL ASTHMA, 4399
- (3) RECURRENT RIGHT FLANK PAIN OF UNDETERMINED ETIOLOGY, 7890
- (4) SMALL CAPACITY BLADDER, 5968
- (5) LEFT VARICOCELE, 4564

THERE IS AN ADDENDUM DISCUSSING THE ASTHMA, AN ADDENDUM FROM THE NEUROLOGY SERVICE WITH A DIAGNOSIS OF BENIGN CEPHALGIA WHICH WAS CONSIDERED TO BE COMPATIBLE WITH CONTINUED NAVAL SERVICE, AND AN ADDENDUM FROM THE UROLOGY SERVICE WHICH FOUND NO UROLOGIC DISEASE OTHER THAN UNINHIBITED BLADDER CONTRACTION FOR WHICH HE WAS CLEARED FOR FULL DUTY.

ON 21 JULY 1994 THE RECORD REVIEW PANEL OF THE PHYSICAL EVALUATION BOARD FOUND THE MEMBER TO BE FIT FOR DUTY IN ACCORDANCE WITH THE REGULATORY REQUIREMENT OF SECNAVINST 1850.4C PARA 2056. THE MEMBER DISAGREED WITH THESE FINDINGS, AND DEMANDED A FORMAL HEARING.

THE HEARING WAS CONDUCTED ON 29 NOVEMBER 1994, AT BETHESDA, MARYLAND, WITH CAPTAIN J. B. GODLEY, USNR, AS PRESIDING OFFICER AND COLONEL J. D. CUMMINGS, USMC, AND CAPTAIN D. M. GRODIN, MC, USN AS PANEL MEMBERS. THE MEMBER'S LEGAL COUNSEL WAS LT S. N. DEPIZZOL, JAGC, USNR.

THE MEMBER APPEARED IN PERSON AT THE FORMAL HEARING, PETITIONING TO BE FOUND UNFIT FOR DUTY WITH A DISABILITY RATING OF 30% UNDER VA CODE 7908, AND 30% UNDER VA CODE 6602, FOR A TOTAL COMBINED DISABILITY RATING OF 50% WITH PLACEMENT ON THE TDRL. AVAILABLE TO THE HEARING PANEL WERE THE HEALTH RECORD, CASE FILE AND FITNESS REPORTS. ADMITTED INTO EVIDENCE WERE THE FOLLOWING - EXHIBIT A: HEALTH RECORD ENTRIES; EXHIBIT B: UROLOGY ADDENDUM TO THE MEDICAL BOARD REPORT; EXHIBIT C: VA RATING FOR PITUITARY MACROADENOMA.

IN EARLY 1992, THE MEMBER DEVELOPED GYNECOMASTIA. IN APRIL 1992, THE PROLACTIN LEVEL WAS ELEVATED AT 154, AND THE TESTOSTERONE WAS 94. AN MRI SCAN REVEALED A 10 X 8 X 8 MM PITUITARY ADENOMA. HEALTH RECORD ENTRIES ARE UNCLEAR IN REGARD TO THE SUBSEQUENT MEASUREMENTS OF THE ADENOMA. THE MEMBER STATED AT THE HEARING THAT THE CONSENSUS IS THAT THE ADENOMA HAS NOT CHANGED IN SIZE TO THE CURRENT TIME. HE STATED THAT HE EXPERIENCES HOT FLASHES TWO TO THREE TIMES PER DAY, AND EXPERIENCES MOOD SWINGS AND INSOMNIA. THERE HAS BEEN SOME SEXUAL DYSFUNCTION, AND FLUCTUATIONS IN ENERGY LEVELS AND PHYSICAL STAMINA. HE TAKES PARLODEL, 20 MG DAILY, AND RECEIVES TESTOSTERONE REPLACEMENT INJECTIONS ON A REGULAR BASIS. THE MEMBER BELIEVES THAT THE HOT FLASHES COMBINED WITH MOOD SWINGS

[REDACTED]

AND SLEEPINESS FROM INSOMNIA DISTRACT HIM FROM OPTIMAL PERFORMANCE AT WORK, AND THEREFORE HE CONSIDERS THE CONDITION TO BE UNFITTING FOR DUTY IN HIS CASE. THE PITUITARY PROLACTINOMA HAS NOT BEEN THOROUGHLY CONTROLLED WITH MEDICAL THERAPY, AND MAY REQUIRE SURGICAL TREATMENT IN THE FUTURE BECAUSE OF INCREASED SERUM PROLACTIN LEVELS.

THE MEMBER HAS A LONG STANDING HISTORY OF ASTHMA, AND APPEARED BEFORE A MEDICAL BOARD ON 17 OCTOBER 1980 AND 8 APRIL 1981. FOLLOWING LIMITED DUTY, HE WAS RETURNED TO FULL DUTY ON 15 OCTOBER 1981 WITH SOME RESTRICTION. SINCE THAT TIME, ACCORDING TO THE MEDICAL BOARD, HE HAS CONTINUED TO HAVE MILD ASTHMA INTERMITTENTLY, WITH TRIGGERS FOUND TO BE DUST, CIGARETTE SMOKE, MOLD AND PAINT FUMES. HE STATED THAT APPROXIMATELY ONCE WEEKLY HE EXPERIENCES AN ASTHMATIC EPISODE WHICH RESPONDS TO PROVENTIL. THESE OFTEN OCCUR AT NIGHT. HE DESCRIBED MORNING COUGH. CURRENT MEDICATIONS INCLUDE PROVENTIL ON AN AS NEEDED BASIS, THEODUR 150 MG DAILY, INTAL ON AN AS NEEDED BASIS, AND ALLERGY DESENSITIZATION. ONCE IN 1980 AND AGAIN ONCE IN 1988 HE RECEIVED A TAPERING COURSE OF STEROIDS. HE CONTROLS THE ASTHMA WITH HIS MEDICATIONS, AND THERE IS NO HISTORY OF EMERGENCY ROOM VISITS OR OTHER EMERGENT CARE. THERE IS NO HISTORY OF HOSPITALIZATION. HE EXPERIENCES SHORTNESS OF BREATH, BUT CAN RUN AND PASS A FULL PRT. HE MISSES APPROXIMATELY TWO TO THREE DAYS OF WORK PER YEAR DUE TO THE ASTHMA. HE STATED THAT THE CURRENT CONDITION IS ESSENTIALLY THE SAME AS IT HAS BEEN SINCE 1983.

THE MEMBER IS AN ACTIVE DUTY LIEUTENANT COMMANDER ENGINEERING DUTY OFFICER WITH NO PRIOR ENLISTED SERVICE. HE HAS BEEN ON CONTINUOUS ACTIVE DUTY SINCE COMMISSIONING IN 1973. AS A LIEUTENANT COMMANDER WHO FAILED OF SELECTION FOR THE GRADE OF COMMANDER MULTIPLE TIMES, HE WAS FACING A STATUTORY RETIREMENT DATE OF 1 JULY 1994. BUREAU OF NAVAL PERSONNEL RECORDS SHOW THAT THE MEMBER WAS ISSUED ORDERS DATED 14 APRIL 1994 FOR HIS RETIREMENT ON 1 JULY 1994. THE MEMBER'S ILLNESS OF PROLACTIN-SECRETING PITUITARY ADENOMA WAS DIAGNOSED IN APRIL, 1992, AND RESULTED IN THE WRITING OF A MEDICAL BOARD ON 25 MAY 1994, A DATE WITHIN NINE MONTHS OF HIS STATUTORY RETIREMENT DATE. THIS ILLNESS IS NOT CONSIDERED TO BE EITHER ACUTE OR GRAVE AND IS NOT DEEMED TO BE LIFE THREATENING. THEREFORE, THERE IS NO EVIDENCE TO OVERCOME THE PRESUMPTION OF FITNESS CRITERIA AS DEFINED IN PARAGRAPH 2056 OF SECNAVINST 1850.4C. IN FACT, THE MEMBER EXHIBITS ONLY MILD SYMPTOMS FROM THE PITUITARY ADENOMA CONSISTING OF HOT FLASHES TWO TO THREE TIMES PER DAY WHICH ARE RELIEVED BY STEPPING OUTSIDE FOR A BRIEF PERIOD AND COOLING OFF, OCCASIONAL INSOMNIA, AND MOOD SWINGS. THEREFORE, IT WAS THE UNANIMOUS OPINION OF THE PANEL THAT THE PITUITARY ADENOMA DID NOT REPRESENT AN ACUTE AND GRAVE ILLNESS WHICH WOULD OVERTURN THE PRESUMPTION OF FITNESS IN THIS CASE.

THE MEMBER'S ASTHMA CONDITION HAS EXISTED FOR OVER 14 YEARS AND IS CONTROLLED WITH MEDICATION. IN JUNE, 1983, THE MEMBER CHANGED HIS DESIGNATOR FROM THE SEAGOING SUBMARINE WARFARE CAREER PATH TO THE

[REDACTED]

PRIMARILY SHORE-BASED ENGINEERING DUTY DESIGNATOR. THIS CAREER CHANGE WAS COMPATIBLE WITH THE MEMBER'S ASTHMA CONDITION AND PERMITTED HIM TO FULLY PERFORM HIS DUTIES FOR MORE THAN TEN YEARS, UP THROUGH THE MEMBER'S MANDATORY RETIREMENT DATE OF 1 JULY 1994, AS EVIDENCED BY THE MEMBER'S REPORTS OF FITNESS WHICH HE SHARED WITH THE PANEL. AGAIN, IT WAS THE UNANIMOUS OPINION OF THE PANEL THAT THE MEMBER'S CONDITION WAS WELL CONTROLLED WITH MEDICATION AND THAT HE CONTINUED TO PERFORM THE DUTIES OF HIS OFFICE AND GRADE UNTIL HE COMMENCED PROCESSING FOR RETIREMENT, AND THAT HIS ASTHMA DID NOT PRESENT A LIFE THREATENING SITUATION. THEREFORE, THE PRESUMPTION OF FITNESS IS NOT OVERCOME.